THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.22090 OF 2005

DATED:18.10.2005

Between:

Dasari Demudu and others

…Petitioners

And

The Mandal Revenue Officer, Gajuwaka,

Visakhapatnam and others

…Respondents

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ORDER:

The eight petitioners alleged that they were owners of various extents of lands, which were acquired for Visakhapatnam Steel Plant in 1978. Under rehabilitation scheme, they alleged that the Special Deputy Collector, Land Acquisition, issued rehabilitation cards (R-cards) to the petitioners or their predecessors. They also alleged that they were allotted 107 Sq.yards house sites at Donkada and Pudivanipalem Rehabilitation Colony, in Gajuwaka Mandal, Visakhapatnam District, and have constructed small houses by borrowing amounts from A.P. State Housing Corporation and have been residing there. They alleged that on 3.10.2005 at about 4.00 p.m. the respondents along with their staff came to the site and directed the petitioners to remove the thatched houses in S.No.205 and also threatened to take

away the buffalos of the petitioners. This action is assailed in the Writ Petition as contravening the provisions of the A.P. Land Encroachment Act, 1905 (for short, the Act) and rule of law.

The grievance of the petitioners is that without there being due process of law, the petitioners cannot be evicted from the land. They therefore pray for a declaration and direction to the respondents not to evict the petitioners unless action is taken under the Act. The matter was listed initially on 7.10.2005. At the request of the learned Assistant Government Pleader for Revenue (General), the same was adjourned to enable the Government Pleader to get instructions in the matter. Today, learned Assistant Government Pleader has placed before this Court lay out of rehabilitation colony, Aganampudi Sector-I and submits that the petitioners have occupied the land which is earmarked for park in the rehabilitation colony, that they are not in possession and it is not possible to provide house sites in the land earmarked for parks and roads and other community purposes. He has also placed before this Court a communication received from the Special Deputy Collector (Land Acquisition), Steel Plant, addressed to the Government Pleader for Revenue.

A perusal of the lay out of rehabilitation colony would support the submission of the respondents that it is a park area, which is occupied by the petitioners. The petitioners have not placed any material before this Court to show their possession. Therefore, it is not possible to agree with the submission of the learned counsel for the petitioners that they are in possession and there is threat of dispossession. Even if the petitioners are in possession of the property, they cannot be permitted to occupy the park area and they have to be evicted. It is brought to the notice of this Court that they are not in possession of park area. The relief as prayed cannot be granted. If the petitioners have valid R-cards, their case for allotment of alternative site for residential purpose may be considered, provided, the petitioners approach appropriate authority with such request.

The Writ Petition with the above observations is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

18.10.2005

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